

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JUSTIN LYNN VICTORY,
Plaintiff,
v.
ZACH CONINE, et al.,
Defendants.

Case No.: 2:25-cv-00604-APG-DJA

ORDER

On April 2, 2025, state prisoner Justin Victory filed an application to proceed *in forma pauperis*. (ECF No. 1). But Plaintiff did not file a complaint in this action. The Court is aware that Plaintiff submitted a complaint one day later. But because Plaintiff's complaint did not include a case number, the Clerk of the Court correctly docketed it in a separate action, which is styled *Victory v. Conine*, Case No. 2:25-cv-00605-JAD-EJY ("*Victory II*"). Plaintiff has since filed an application to proceed *in forma pauperis* in that case. *Victory II*, ECF No. 3.

I. DISCUSSION

A civil action is commenced by filing a complaint with the court." Fed. R. Civ. P. 3. "A civil-rights complaint filed by a person who is not represented by an attorney must be submitted on the form provided by this court or must be legible and contain substantially all the information called for by the court's form." Nev. LSR 2-1. And the complaint must be signed personally by the unrepresented party. Fed. R. Civ. P. 11(a). If Plaintiff wants to proceed with this action, he must submit a signed complaint on this Court's approved form.

Plaintiff is cautioned that "[p]laintiffs generally have no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendant." *Adams v. Cal. Dept. of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007) (cleaned up), *overruled on other grounds by Taylor v. Sturgell*, 553

1 U.S. 880, 904 (2008). In fact, duplicative litigation by a plaintiff proceeding *in forma*
2 *pauperis* may be dismissed as malicious under 28 U.S.C. § 1915(e). See *Cato v. United*
3 *States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (collecting cases). If Plaintiff did not intend
4 to initiate two different lawsuits but, rather, intended to file a single lawsuit and his
5 complaint and application to proceed *in forma pauperis* were erroneously separated into
6 two different lawsuits, then he should file a notice under Federal Rule of Civil Procedure
7 41(a)(1)(A)(i) voluntarily dismissing his later-filed lawsuit—*Victory II*, Case No. 2:25-cv-
8 00605-JAD-EJY. And Plaintiff is cautioned that he must clearly write the case number on
9 his documents to ensure that they are docketed in the correct lawsuit. See Nev. LR IA
10 10-2.

11 II. CONCLUSION

12 It is therefore ordered that Plaintiff has **until May 9, 2025**, to submit a signed legible
13 complaint to this Court.

14 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if
15 he fails to timely comply with this order.

16 The Clerk of the Court is directed to send Plaintiff Victory the approved form for
17 filing a 42 U.S.C. § 1983 complaint with instructions.

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19 DATED: April 9, 2025

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22 UNITED STATES MAGISTRATE JUDGE
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